

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN D. KNECHT,

Plaintiff,

v.

FIDELITY NATIONAL TITLE
INSURANCE COMPANY, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS INC., DEUTSCHE BANK
NATIONAL TRUST CO. AS TRUSTEE
FOR GSR MORTGAGE LOAN TRUST
2006-0A1, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2006-0A1, AMERICAN HOME
MORTGAGE SERVICING INC.,

Defendants.

No. 2:12-cv-1575 RAJ

DEFENDANT MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.'S
ANSWER AND AFFIRMATIVE
DEFENSES

Defendants Mortgage Electronic Registration Systems, Inc. ("MERS") answers Plaintiff's
Complaint (Dkt #1-1) as follows:

I. PRELIMINARY STATEMENT

MERS responds to the Complaint based on the current information available to it and after
reasonable investigation. MERS reserves the right to amend this Answer based on information
made available through discovery or further investigation. Unless specifically admitted below,
MERS denies each and every allegation, claim, and prayer for relief contained in the Complaint.

DEFENDANT MERS' ANSWER TO
COMPLAINT(NO. 2:12-CV-1575 RAJ) – 1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

II. RESPONSE TO COMPLAINT

1. Answering Paragraph I.1 of the Complaint, MERS responds that the documents referenced therein speak for themselves and no response regarding the allegations concerning the documents' content is required. MERS lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in Paragraph I.1, and on that basis denies them.

2. Answering Paragraph I.2 of the Complaint, MERS responds that the documents referenced therein speak for themselves and no response regarding the allegations concerning the documents' content is required. MERS lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in Paragraph I.2, and on that basis denies them.

3. Answering Paragraph I.3 of the Complaint, MERS admits that it is a Delaware corporation with a mailing address in Reston, Virginia, and that at times it has been identified on deeds of trust recorded in the state of Washington as beneficiary in a nominee capacity for the original lender and lender's successors and assigns. MERS further responds that the documents referenced in Paragraph I.3 speak for themselves and no response regarding the allegations concerning the documents' content is required. Further, the statements in Paragraph I.3 concerning jurisdiction state legal conclusions requiring no answer. MERS denies the remaining allegations in Paragraph I.3 of the Complaint.

4. Answering Paragraph I.4 of the Complaint, MERS admits that an n "Assignment of Deed of Trust" from MERS to Deutsche Bank National Trust Co., as Trustee for GSR Mortgage Loan Trust 2006-0A1, Mortgage Pass-Through Certificates, Series 2006-0A1 was recorded in the public records. MERS lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in Paragraph I.4 of the Complaint, and on that basis denies them.

5. Paragraph I.5 of the Complaint concerns a party dismissed from this action, and thus no answer is required. To the extent an answer is required, MERS lacks sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph I.5, and on that basis denies them.

1 6. Paragraph I.6 of the Complaint states legal conclusions requiring no answer. To
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3 the extent an answer is required, MERS does not dispute that this Court has jurisdiction over this
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5 action.
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7 7. Answering Paragraph II.1 of the Complaint, MERS responds that the documents
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9 referenced therein speak for themselves and no response regarding the allegations concerning the
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11 documents' content is required. MERS lacks sufficient information to form a belief as to the truth
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13 or falsity of the remaining allegations in Paragraph II.1 of the Complaint, and on that basis denies
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15 them.
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17 8. Paragraph II.2 of the Complaint contains no allegations.
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19 9. Answering Paragraph II.3 of the Complaint, MERS responds that the documents
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21 referenced therein speak for themselves and no response regarding the allegations concerning the
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23 documents' content is required. MERS lacks sufficient information to form a belief as to the truth
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25 or falsity of any remaining allegations in Paragraph II.3 of the Complaint, and on that basis denies
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27 them.
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29 10. Answering Paragraph II.4 of the Complaint, MERS responds that the documents
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31 referenced therein speak for themselves and no response regarding the allegations concerning the
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33 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
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35 Plaintiff's Property after April 1, 2010, therefore MERS lacks sufficient information to form a
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37 belief as to the truth or falsity of any remaining allegations in Paragraph II.4 of the Complaint, and
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39 on that basis denies them.
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41 11. Answering Paragraph II.5 of the Complaint, MERS responds that the documents
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43 referenced therein speak for themselves and no response regarding the allegations concerning the
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45 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
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47 Plaintiff's Property after April 1, 2010, therefore MERS lacks sufficient information to form a
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1 belief as to the truth or falsity of any remaining allegations in Paragraph II.5 of the Complaint, and
2 on that basis denies them.
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5 12. Answering Paragraph II.6 of the Complaint, MERS responds that the documents
6 referenced therein speak for themselves and no response regarding the allegations concerning the
7 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
8 Plaintiff's Property after April 1, 2010, therefore MERS lacks sufficient information to form a
9 belief as to the truth or falsity of any remaining allegations in Paragraph II.6 of the Complaint, and
10 on that basis denies them.
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17 13. Answering Paragraph II.7 of the Complaint, MERS responds that the documents
18 referenced therein speak for themselves and no response regarding the allegations concerning the
19 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
20 Plaintiff's Property after April 1, 2010, therefore MERS lacks sufficient information to form a
21 belief as to the truth or falsity of any remaining allegations in Paragraph II.3, and on that basis
22 denies them.
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29 14. Answering Paragraph II.8 of the Complaint, MERS responds that the documents
30 referenced therein speak for themselves and no response regarding the allegations concerning the
31 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
32 Plaintiff's Property after April 1, 2010, therefore MERS lacks sufficient information to form a
33 belief as to the truth or falsity of any remaining allegations in Paragraph II.8, and on that basis
34 denies them.
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41 15. Answering Paragraph II.9 of the Complaint, MERS responds that the documents
42 referenced therein speak for themselves and no response regarding the allegations concerning the
43 documents' content is required. MERS possessed no interest in the subject Deed of Trust or
44 Plaintiff's property after April 1, 2010, therefore MERS lacks sufficient information to form a
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1 belief as to the truth or falsity of any remaining allegations in Paragraph II.9, and on that basis
2 denies them.
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5 16. Answering Paragraph III.1.A of the Complaint, MERS responds that this paragraph
6 states only legal conclusions that fails to comply with Fed.R.Civ.P. 8, and therefore no answer is
7 required. To the extent an answer is required, MERS denies that Plaintiff is entitled to the
8 requested relief, and further denies Plaintiff's summary of relevant legal authority.
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12 17. Answering Paragraph III.1.B of the Complaint, MERS responds that this paragraph
13 concerns a claim that the Court has dismissed, and thus no response is necessary. To the extent a
14 response is required, MERS denies.
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19 18. Answering Paragraph III.1.C of the Complaint, MERS responds that this paragraph
20 states legal conclusions concerning other parties, and thus no response from MERS is required.
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23 19. Answering Paragraph III.1.D of the Complaint, MERS responds that this paragraph
24 states legal conclusions concerning other parties, and thus no response from MERS is required.
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27 20. Answering Paragraph III.1.E of the Complaint, MERS responds that this paragraph
28 states legal conclusions concerning other parties, and thus no response from MERS is required.
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31 21. Answering Paragraph III.1.F of the Complaint, MERS responds that this paragraph
32 states legal conclusions concerning a party that has been dismissed from this action, and thus no
33 response from MERS is required.
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37 22. Answering Paragraph III.1.G of the Complaint, MERS responds that this paragraph
38 states legal conclusions concerning a party that has been dismissed from this action, and thus no
39 response from MERS is required.
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43 23. Answering Paragraph III.2.A of the Complaint, MERS responds that this paragraph
44 states legal conclusions concerning other parties, and thus no response from MERS is required.
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47 24. Answering Paragraph III.2.B of the Complaint, MERS responds that this paragraph
48 states legal conclusions concerning other parties, and thus no response from MERS is required.
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1 25. Answering Paragraph III.3.A of the Complaint, MERS responds that this paragraph
2 states legal conclusions requiring no answer. To the extent a response is required, MERS denies
3 that it appointed the successor trustee and denies all other allegations in Paragraph III.3.A.
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5 26. Answering Paragraph III.3.B of the Complaint, MERS responds that this paragraph
6 states legal conclusions requiring no answer. To the extent a response is required, MERS denies
7 the allegations in Paragraph III.3.A.
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9 27. Answering Paragraph III.4 of the Complaint, MERS restates its responses above to
10 the allegations contained Paragraphs I.1 through III.3.A of the Complaint. MERS further
11 responds that Paragraph III.4 contains incomplete legal conclusions requiring no response.
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13 28. Answering Paragraph III.4.A of the Complaint, MERS denies all factual
14 allegations directed at MERS. The remainder of Paragraph III.4.A contains incomplete legal
15 conclusions requiring no response.
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17 29. Answering Paragraph III.5.A of the Complaint, this paragraph concerns claims that
18 have been dismissed from this action, therefore no response is required. To the extent a response
19 is required, MERS denies the allegations.
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21 30. Answering Paragraph III.5.B of the Complaint, this paragraph concerns claims that
22 have been dismissed from this action, therefore no response is required. To the extent a response
23 is required, MERS denies the allegations.
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25 31. Answering Paragraph III.5.C of the Complaint, this paragraph concerns claims that
26 have been dismissed from this action, therefore no response is required. To the extent a response
27 is required, MERS denies the allegations.
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29 32. MERS denies the allegations in Paragraph 6.A of the Complaint.
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31 33. MERS denies the allegations in Paragraph 6.B of the Complaint.
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33 34. MERS denies the allegations in Paragraph 6.C of the Complaint.
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35. Answering the "Request for Relief" in the Complaint, MERS denies that Plaintiff is entitled to any requested relief, or any other relief whatsoever.

III. AFFIRMATIVE DEFENSES

Having answered the allegations in the Complaint, Defendant MERS sets forth the following affirmative defenses. By setting forth these affirmative defenses, MERS does not assume any burden of proof as to any fact issue or other element of any cause of action that properly belongs to Plaintiff. Further, MERS reserves the right to amend or supplement its affirmative defenses as discovery or further investigation may justify.

1. The Complaint fails to state a claim against Defendant MERS for which relief can be granted.

2. Some or all of the claims for relief may be barred in whole or in part by equitable doctrines, including but not limited to unclean hands, laches, waiver, avoidable consequences, and/or estoppel.

3. Plaintiff failed to mitigate his damages, if any.

4. Certain of Plaintiff's claims for relief may be barred by the relevant statute of limitations.

5. Certain of Plaintiff's claims for relief or requested damages may be barred by the economic loss doctrine.

6. Plaintiff has failed to identify a justiciable controversy justifying the requested declaratory relief.

7. Plaintiff's damages, if any, were proximately caused, in whole or in part, from the fault of others, including Plaintiff's own negligence in exercising reasonable care for his financial obligations, and non-parties.

8. Plaintiff's claims are barred in whole or in part because he assumed the risk he would not be able to make his mortgage payments as provided for in his contractual obligations.

By: /s/ Frederick B. Rivera. WSBA #23008
 Frederick B. Rivera, WSBA #23008
Perkins Coie LLP
 1201 Third Avenue, Suite 4900
 Seattle, WA 98101-3099
 Telephone: 206.359.8000
 Facsimile: 206.359.9000
 Email: FRivera@perkinscoie.com

**Attorneys for Defendants Mortgage Electronic
Registration Systems Inc.; Deutsche Bank
National Trust Co., as Trustee for GSR
Mortgage Loan Trust 2006-0A1, Mortgage
Pass-Through Certificates Series 2006-0A1;
and American Home Mortgage Servicing Inc.
(now known as Homeward Residential Inc.)**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 26, 2013, the foregoing was filed electronically via the Court's CM/ECF systems, which automatically provided notice and service to the following:

Scott E. Stafne
Stafne Law Firm
Stafnelawfirm@aol.com
Counsel for Plaintiff

Daniel Allen Womac
Fidelity National Law Group
Daniel.womac@fnf.com
Counsel for Fidelity National Title Insurance Company

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington, March 26, 2013.

By: s/ Frederick B. Rivera
Frederick B. Rivera, WSBA #23008
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Email: FRivera@perkinscoie.com